

Judgment stopping bistro from putting tables, chairs on walkway may serve as legal guide

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Ruling on use of common area may be key



Raffles Place Bistro, which is no longer in operation at The Sail @ Marina Bay, had placed chairs, tables and other objects for its patrons on the walkway for a number of years. ST PHOTO: ALPHONSUS CHERN

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Case Study

A court judgment that stopped a bistro from placing chairs and tables on the pedestrian walkway immediately outside it could well become a reference point for other businesses in the same quandary.

The management corporation of a mixed-use development, The Sail @ Marina Bay, had taken issue with the Raffles Place Bistro that operated on the ground floor over the matter.

The bistro had placed chairs, tables and other objects for its patrons on the walkway for a number of years, stacking up the items against surrounding walls or pillars when it was closed to curb obstruction to the walkway.

The management corporation (MC), which said the walkway was common property, went to court last year to restrain the bistro from placing its tables and chairs there.

District Judge Kevin Kwek granted the application in August last year and, in the following month, issued the judgment grounds that were released yesterday.

"In the light of the (issues raised), I find it would not be unjust to grant the mandatory injunction," he wrote.

The bistro is no longer in operation at the development, and it is unclear if its closure is linked to the court case.

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Both parties had agreed the eatery had breached the Building Maintenance (Strata Management) Regulations 2005 and encroached on common property.

But they had also agreed it could continue doing so if it posed no harm and if it would cause hardship to the restaurant not to have the extra space.

However, the lawyers for the management, Mr Joseph Lee and Mr Terence Wah, argued it was unsafe for customers, pointing out that there was a motor accident close to the premises in September 2014 in which two vehicles mounted the pedestrian walkway and crashed into a tree.

They noted the objects on the walkway also obstructed a fire escape route, and that the chairs and tables could also pose a safety risk.

An MC official also testified it could not get approval from the authorities for outdoor seating for other eateries on the first level as they encroached on the pedestrian area.

Raffles Place Bistro's lawyers Ng Lip Chih and Tan Jie Ying described some of the claims as "gross exaggerations" and said an injunction would cause undue hardship to the eatery.

But the district judge found no evidence of economic loss and said even if there were, "this would only be a result of the defendant's own breach".

He noted that the original tenancy agreement provided for Raffles Place Bistro to sell only takeaway food. "Serving dine-in food at the common property was never in the agreement between the parties" and to now allow it to serve dine-in food would be contrary to the agreement, he said.

He said the case underscored the importance of obeying by-laws for the common good.

"I accept the plaintiff's submissions that if the injunction is not granted, the plaintiff's authority would be withered away and other tenants would treat such a judgment as a licence to encroach on the common property with impunity," he added.

The judge noted the MC had actually made similar applications against 11 other units which had placed items, including chairs, advertisement banners and crates and boxes, on common property.

In six of the cases, the defendants did not dispute their part and paid costs, while the other cases were settled or withdrawn after the tenants removed the encroaching objects.

But Bistro remained the only occupant that held it was entitled to leave the encroaching items on the common property, noted the judge.

He said an injunction had to be given to ensure equal treatment of all the tenants "by ensuring that all the persons are bound by the by-laws" and that a consistent message was sent.